

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Dated : This the 30th day of March 2010

Original Application No. 330 of 2007

Hon'ble Mr. S.N. Shukla, Member (A)

Smt. Jagdai, W/o late Dhakan Lal, R/o Village Ghiyana Post
Suhas, Distt: Pilibhit.

...Applicant

By Adv : Sri R.C. Pathak

V E R S U S

1. Union of India through the Secretary, Ministry of Communication, Department of Posts Sanchar Bhawan, New Delhi.
2. The Post Master General (PMG) Bareilly Zone, Department of Post Civil Lines, Bareilly Cantt.
3. The Senior Supdt. Of Post Offices, Office of the Senior Superintendent of Post Offices, Bareilly Division, Bareilly.
4. The Post Master, Head Post Office, Pilibhit (UP).

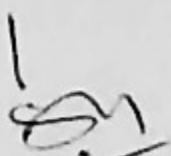
...Respondents

By Adv: Sri S. Prakash

O R D E R

Heard Shri R.C. Pathak, learned counsel for the applicant and Sri S. Prakash, Learned counsel for the respondents.

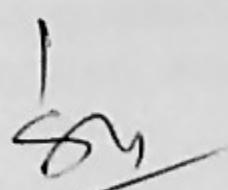
2. The applicant is widow of late Dhakan Lal, who was earlier serving as Mail Overseer in the Postal Department at



Pilibhit. The matter relates to surety given by the late husband of the applicant to another colleague namely late Nand Kishore Rana for some loan taken from UP Postal Primary Cooperative Bank Limited. Since the part of the loan remained to be repaid back to the Bank from the borrower the Bank fastened the liability on the surety who also unfortunately died prior his retirement. Thereafter, a recovery of Rs. 40,500/- was made from the Death Cum Retirement Gratuity (DCRG) of late Dhakan Lal while making payment of retiral benefits to his widow (applicant in this OA). The instant OA is against the said recovery:

3. There is a preliminary objection of delay of approximately one year in filing this OA. However, considering that the OA has been filed by the widow of the deceased employee who is just a housewife and having no understanding perhaps even of composition of amount given in her hand after the death of her husband and may have realised the implications only with the help of other well-wishers. Considering the background of the case and also fact that delay is not insurmountable, delay in filing of this OA is condoned.

4. Learned counsel for the respondents invited the Tribunal's attention to Annexure CA-4 to the CA which reads as under:-



"GOVERNMENT OF INDIA'S DECISION

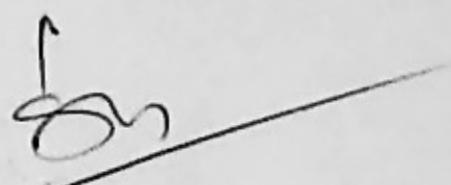
.....
.....
.....

"It has been decided in consultation with the Ministries of Finance and Law, Justice and Company Affairs, New Delhi, that in case the prematurely retired official gives a declaration to his Disbursing Officer for recovery of outstanding dues of the Co-operative Societies from his DCRG payable to him under the rules, the same may be deducted in cash from the DCRG of the official and remitted to the society"

5. On specific question to the learned counsel for the respondents that this Clause is applicable only in case of premature retirement and on the fact of this case, he has no particular argument to advance.

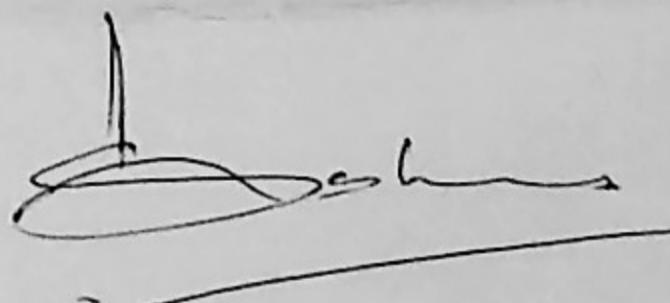
6. Learned counsel for the applicant on the other hand invited attention to Annexure A-30 to the OA, being the decision of Division Bench of this Tribunal in **OA No. 787 of 2005: Jai Pal Singh Vs. Union of India and others** dated 16.11.2006, wherein somewhat similar case a Division Bench of this Tribunal held as under:-

"5.We are not on the question as to whether the loan or any part of the loan, which late Nand Kishore or his heirs could not pay, can be recovered from the applicant, who stood surety to Nand Kishore, in the context of that loan. We are purely on the question as to whether any part of that loan, could be recovered by the official-respondents, from DCRG of the applicant. The payment of DCRG is regulated by a set of rules and the clarifications, issued from time to time. It is never the case of the respondents that amount of Rs. 40,500/- is due to the Government. We are of the view that the amount due to the third party like cooperative society, bank etc. cannot be treated to be 'government dues' and so cannot be recovered from the DCRG of retired employee. As stated earlier, we are not expressing any view on the question as to whether the applicant is liable to pay that amount to the bank and whether the



bank can recover it is the manner permissible under law. Sri Pathak, by referring to the contents of Annexure A-12, has tried to say that the bank cannot proceed against the applicant, without first attempting to get the amount recovered from the heirs of Nand Kishore. We do not express our view on that point."

7. After giving very considerable thought to the rival arguments this Tribunal is of the view that no recovery could have been made from the DCRG of late Dhakan Lal, under the rules relied upon by the learned counsel for the respondents. Accordingly, the OA is allowed. The impugned order dated 15.03.2005 (Annexure A-1A to the OA) is quashed and set aside. Respondents are directed to pay back the entire amount recovered from the DCRG of late husband of the applicant with interest at the rate of 12% per annum starting from the date of deduction to the date of payment. The respondents are also directed to comply with this order within a period of 08 weeks from the date of receipt of copy of this order. No cost.



Member (A)

/pc/